

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14921
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On May 19, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted][Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1991 through 1998 in the total amount of \$8,983.

On July 18, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer initially requested a hearing but later chose to submit additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayer received wages that were reported to the Idaho Department of Labor. The Bureau checked this information with the Tax Commission's records and found the taxpayer had not filed Idaho income tax returns for the tax years 1991 through 1998. The Bureau sent the taxpayer a letter asking about his filing requirement with the state of Idaho but received no response from the taxpayer.

The Bureau gathered additional information on the taxpayer and determined he was required to file Idaho income tax returns. The Bureau prepared returns for the taxpayer and sent the taxpayer a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination and asked for the information on which the Bureau made its determination.

The Bureau continued corresponding with the taxpayer to get additional information to modify its determination. However, after several months of letters and phone calls going back and forth, the Bureau decided it was necessary to move the matter into the administrative review process.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded that he would like a hearing. A hearing was scheduled for August 28, 2001, at the Boise office of the Tax Commission; however, after some additional correspondence with the taxpayer it was determined the taxpayer would submit additional documentation rather than have a hearing at that time.

The taxpayer provided information on his income and his activities for the years in question. The Tax Commission reviewed that information and found that the taxpayer did not earn a lot of income during those years. The taxpayer received most of his livelihood through gifts or loans from his father. He also refinanced his house. The taxpayer did have wages and/or some self-employment income throughout the years; however, his earnings in 1993, 1994, 1995, 1997, and 1998 were less than his combined exemption and standard deduction amounts. In 1991, 1992, and 1996, the taxpayer's income ranged from \$18,000 to \$8,000.

The returns the Bureau prepared used, as an income amount for each year, the taxpayer's wages earned in 1991 of \$18,039. However, with the information the taxpayer provided it is apparent the Bureau's estimate of the taxpayer's income is overstated. Considering all the available information, the Tax Commission determined the returns prepared by the Bureau should be modified.

Therefore, the Tax Commission adjusted the returns the Bureau prepared to take into account the information the taxpayer provided. The adjusted returns resulted in tax due for 1991 and 1992 only. This was due in large part because the taxpayer did not provide any documentation showing the amount of withholdings from his wages in 1991 and 1992. Consequently, the Tax Commission did not allow for any withholdings for those years.

The other year's returns, 1993 through 1998, resulted in refunds. However, Idaho Code sections 63-3072 and 63-3035 state that no credit or refund shall be made if a claim for credit or refund is not made within three years of the due date of the return. The taxpayer's returns were due on the fifteenth day of the fourth month following the end of the calendar year. The three-year statute for credit or refund expired three years later for each of the returns. Since the taxpayer did not file a claim for credit or refund within the prescribed time, no credit or refund is allowed.

The taxpayer's 1991 and 1992 returns resulted in tax owed to the state of Idaho. Idaho Code section 63-3045 states that interest shall be added to any tax that is not paid by the due date of the return reporting the tax. Therefore, the Tax Commission added interest to the taxpayer's tax liability at the rate provided for in Idaho Code section 63-3045.

The Tax Commission also added a delinquency penalty to the taxpayer's 1991 and 1992 returns. Idaho Code section 63-3046 states that if a return required by the Idaho income tax act is not filed by the due date of the return, a penalty of 5% per month to a maximum of 25% may be assessed and collected. Therefore, the Tax Commission added a 25% penalty to the taxpayer's 1991 and 1992 income tax liability.

WHEREFORE, the Notice of Deficiency Determination dated May 19, 2000, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1991	\$797	\$199	\$705	\$1,701
1992	171	43	131	345
1993	0	0	0	0
1994	0	0	0	0
1995	0	0	0	0
1996	0	0	0	0
1997	0	0	0	0
1998	0	0	0	<u>0</u>
			TOTAL DUE	<u>\$ 2,046</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No. [Redacted]

[Redacted] [REDACTED]

ADMINISTRATIVE ASSISTANT 1